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April 17, 2009

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, SW, Suite TW-A325
Washington, DC 20554

Re: GN Docket No. 09-47

Dear Secretary Dortch:

These comments are submitted by the New York State Office of the Chief Information Officer/Office For Technology (CIO/OFT) pursuant to the Public Notice in the captioned docket released on April 10, 2009. They respond to the request for comments "on how the Commission should implement sections 103(b) and 103(c) (1) of the Broadband Data Improvement Act (BDIA)." CIO/OFT appreciates the opportunity to respond to the six areas presented below:

CIO/OFT have commented on the sections of the BDIA as requested in the notice, and that while the statute discusses national comparisons we wish to emphasize comparisons on a regional basis to allow for a more accurate demographic analysis.

Question 1: How the Commission can effectively implement the international comparison of broadband service capability, including speeds and prices, required by section 103(b)?

The Commission can effectively implement the international comparison of broadband service capability, including speeds and prices, required by section 103(b) by examining such factors as:

- The availability and use of subsidies to providers and consumers;
- If subsidies are available consider the
 - Sources of the subsidies
 - Amount of the subsidies
 - Services which are subsidized;
- The existence of a national broadband policy should include
 - The origin for such national broadband policy
 - The goals of such national broadband policy
 - The criteria for determining achievement of the goals
 - The goals that have been achieved;
- Pricing strategies for broadband services (e.g. stand alone or bundled)

- For bundled services, the other services included in the bundled pricing;
- The application drivers for higher broadband speeds for the following sectors
 - Public sector
 - Private sector
 - Research and Development Sector
 - Education/University Sector;
- The entity completing the survey; and
- The extent and nature of any legislation and/or regulation regarding the provision of broadband service
 - The entity that is charged with overseeing the provision of broadband service and related regulations.
 - The items (e.g. price, speeds, service delivery) subject to regulation.

Also, the Commission should identify the causes for disparities in pricing, access, speed, and services in the United States as compared to other G8 countries as identified in the Organization for Economic Cooperation and Development (OECD) data.

Question 2: What criteria in section 103(b) (2) for the identification and selection of the communities should be included in the survey?

The Commission should include the following criteria, among others, for the identification and selection of the communities to be included in the survey in section 103(b) (2):

- Population;
- Population Density;
- Demographic Status (urban, rural, suburban);
- Industrial Communities (broken down by manufacturing, high tech, R&D, etc.);
- Educational Communities (higher-education, university centers and research communities); and
- Institutional Settings (prisons, hospitals, homes for disabled, etc.).

Question 3: What additional enumerated indicators in section 103(b) (3) for the identification of “relevant similarities and differences in each community” as well as any additional indicators that commenters seek to propose?

In addition to the items enumerated in response to Question 2, the Commission should consider the following additional indicators in addition to the enumerated indicators in section 103(b)(3) for the identification of “relevant similarities and differences in each community”:

- National and regional per capita income;
- National and regional level of educational attainment and other socioeconomic factors;
- Number of national and regional single parent households;
- Concentration of high tech companies in the area; and
- Number of people per household.

Question 4: What are all possible sources of data the Commission should examine in the course of implementing this section of the BDIA?

The Commission should examine data from the following sources in the course of implementing this section of the BDIA:

- Governments (local/county and state);
- Providers;
- Public Interest Groups;
- Consumer Groups and Other NGOs; and
- Other Organizations such United Nations, World Bank, World Health Organization, OECD and other similarly situated international associations should be considered.

Question 5: Are there any other factors or issues the Commission should consider in implementing section 103(b) of the BDIA?

The Commission should consider the following additional factor in implementing section 103(b) of the BDIA, which is to equalize the population density and geographic size of the United States with respect to other nations, performing the comparative analysis on the following basis:

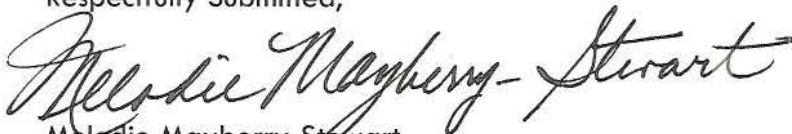
- The U.S. state against similarly situated regions or prefecture in foreign nations.

Question 6: How the Commission can effectively implement the survey requirements in section 103(c) (1), including any factors or issues the Commission should consider as part of this implementation.

The Commission should consider the following factors or issues to effectively implement the survey requirements in section 103(c) (1):

- The ability of consumers to identify the stand alone price of core broadband services they receive as part of a bundled package;
- The ability of consumers to know the actual data transmission speeds;
- Consumer sentiment with respect to providers implementing data caps or higher fees for high bandwidth users (high downloads);
- Consumer sentiment with respect to network management practices regarding monitoring amount of downloaded content;
- The ability of consumers to assess the impact of shared facilities on broadband speed, and, if so, the affect on their satisfaction with their service provider;
- The desire of consumers to pay higher rates for increased bandwidth; and
- Consumers preferred source for accessing the Internet (fixed or mobile).

Respectfully Submitted,



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Director of the NYS Office for Technology